

Remarks

Claims 1- 5 were deleted in order to expedite the prosecution of this application. As such, the rejections based thereon are now moot.

Claims 19 and 20 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 4,428,242 to Holstrom in view of U.S. Patent No. 6,681,645 to Feller. The applicant respectfully disagrees and requests reconsideration in light of the following arguments.

The applicant respectfully submits that there is no disclosure, teaching or motivation in Holstrom or Feller which would allow the two references to be combined. Holstrom uses a circular disk which is placed in the fluid flow and is fixed at its base. Flow contours the disk and creates torque at the base of the disk, and this torque is measured. On the other hand, Holstrom uses a motor to rotate or oscillate a vane within the fluid flow and uses the load put on the motor as the basis of determining flow. The method of obtaining flow in Holstrom is totally incompatible with the method utilized in Feller. There is no disclosure, teaching, or motivation in Holstrom or Feller which would lead one skilled in the art to believe that the fixed method utilized by Holstrom can be combined with the rotating or oscillating method used by Feller to anticipate the invention of claims 19 and 20.

Furthermore, we respectfully disagree with the Office Actions assessment that Feller teaches a magnet (34) adapted to be displaced in response to the torque level generated by the flow. One skilled in the art can readily see that the magnet 34 is used in conjunction with the slave magnet 38 for the sole purpose of driving the rotation or oscillation of the shaft 14. The

magnet 34 rotates in place. It is never displaced in response to the torque level generated by the flow.

Claims 21 and 22 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 6,342,040 to Starr in view of U.S. Patent No. 6,681,645 to Feller. The applicant respectfully disagrees and requests reconsideration in light of the following arguments.

The Office Action states that Feller teaches a deformable element 18. Element 18 is a vane which is rotated about the fluid flow. Nowhere in Feller does it state that the vane is deformable. Furthermore, we interpret Feller as requiring a non-deformable vane 18. If the vane was deformable it would not be able to bear a load that is utilized by the motor to determine flow.

Secondly, for the reasons stated above, we do not believe that Feller teaches a magnet and a sensor adapted to detect a position change of the magnet. The magnet's 38 sole purpose is to drive the rotation of the shaft. Feller does not teach of using a positional sensor with respect to the magnet 38.

Claims 23-26 were allowed.

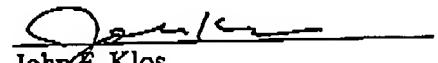
The Office Action also states that under 37 CFR 1.83(a) the mask and hose must be shown or the features canceled from the claims. Fig. 7 of the application discloses a hose 54 coupled to a mask 56. These items are further described in page 11, lines 6 to 18 of the application. As such, we believe we have complied with the requirements 37 CFR 1.83(a) and we respectfully request withdrawal of this objection.

Conclusion

Applicant respectfully submits that, as amended, the subject application is in condition for allowance, and allowance thereof is kindly requested. Should the Examiner wish to discuss these claims further, or should an Examiner's Amendment be needed in order for the claims to proceed to allowance, the Examiner is invited to contact the undersigned attorney at the Examiner's earliest convenience.

Respectfully submitted,
Compumedics Limited,
by its Attorneys

Dated: September 12, 2005


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